

Rikers Report
Prepared Remarks of U.S. Attorney Preet Bharara
Monday, August 4, 2014

Good afternoon. My name is Preet Bharara, and I am the United States Attorney for the Southern District of New York.

Today, I am here to announce the findings and recommendations of a two-year civil rights investigation into the treatment of adolescent male inmates at Rikers Island – those between the ages of 16 and 18, most of whom have not yet been convicted of a crime, and about half of whom have been diagnosed with a mental illness.

The bottom line conclusion is this:

- There is a pattern and practice of conduct at Rikers Island that violates the Constitutional rights of adolescents.
- According to our investigation, for adolescent inmates, Rikers Island is broken.
- It is a place where brute force is the first impulse rather than the last resort; a place where verbal insults are repaid with physical injuries; where beatings are routine while accountability is rare; where a culture of violence endures even while a code of silence prevails.

Now let me say one thing right at the outset. We do not issue these findings lightly. The job of a corrections officer is incredibly difficult. It requires strength and dedication and maturity, as well as physical and mental courage. And most perform their difficult mission admirably and with honor. But something is very wrong at Rikers, and reform is long overdue.

Behind bars does not mean beyond the Constitution. Just as law enforcement has to ensure that criminals are held accountable and punished appropriately, so must law enforcement guarantee that an individual's fundamental Constitutional rights are safeguarded while in custody.

To be clear, we have not commenced a legal action today, but will not hesitate to do so in the future, if necessary. As required by federal statute, we must notify the City of our findings prior to filing a federal lawsuit. And so today, we have started the statutory clock by sending to the Mayor, the DOC Commissioner, and Corporation Counsel a detailed, 79-page report outlining our findings, as well as a host of remedial measures we believe must be implemented to safeguard the Constitutional rights of adolescents in City custody. We urge the City to take the Report seriously and to act with speed.

Now let me describe the Rikers Report in some more detail. Our investigation focused on three principal areas: the use of force by staff, inmate-on-inmate violence, and the use of punitive segregation. We looked specifically at the time period of 2011-2013, which, I emphasize, was before the current Commissioner, Joseph Ponte, took office. So Commissioner Ponte did not create this culture, but it is his responsibility now.

So, what did we find? We found that there is a culture of violence that pervades the adolescent facilities at Rikers Island.

The use of force against adolescents is alarming, to say the least. As the Rikers Report describes, there is a clear culture of “force first.” The chart to my right paints an ugly statistical picture – which is undoubtedly incomplete, as incidents often go unreported, and corrections staff pressure inmates not to report incidents, using the widespread phrase, “Hold it down.”

[Discusses CHART ONE]

[Discusses CHART TWO]

Let me spend another minute on this last point – this powerful code of silence. There exists an unfortunate culture, in which staff get away with inaccurately reporting use of force incidents. We saw, and as outlined in the report, several cases in which the medical records and the reported injuries didn’t match up with officers’ accounts, and incidents where staff reports were inconsistent with actual video surveillance. What’s more:

- The Department of Correction, according to the report, fails to conduct timely and thorough investigations of use of force incidents.
- The Department fails to adequately discipline staff for using unnecessary force against adolescents. For example, we identified one corrections officer who was involved in 76 incidents during a six-year period, but was disciplined

only once and was permitted to continue to work in the adolescent housing areas.

- The Department fails to provide corrections officers with adequate use of force training. Most new officers' first assignment is RNDC, where most adolescents are housed, and these new officers are simply ill-equipped to cope with adolescents who often suffer from a wide range of mental illnesses and behavioral disorders. As a result, these officers quickly resort to using violence as a means to control the adolescents.

Let me elaborate further on another point that I mentioned at the outset—the use of punitive segregation. We found that adolescents charged with committing rule violations, including non-violent infractions, are routinely placed in what amounts to solitary confinement for weeks, and sometimes months, at a time.

As I mentioned, on any given day in 2013, 15-25 percent of the adolescent population was in punitive segregation, often for non-violent conduct. And although the Department implemented certain reforms in late 2013, according to census data for December 16, 2013, dozens of adolescents in punitive segregation that day had been given punitive segregation sentences of 60 days or more.

This is of even greater concern given the significant psychological, physical, and developmental harm for youth with disabilities and histories of trauma and abuse, who make up a significant portion of the Rikers adolescent population.

As a result of this scrutiny, we have come up with a series of recommendations.

The Department, under its new leadership, must promptly implement systemic reforms to address the constitutional violations we outline in our report. We have therefore proposed the following systemic changes, some of which are outlined in the chart to my left:

1. House adolescents in a jail not located on Rikers Island, staffed by officers trained and experienced in handling adolescents.
2. Increase Video Surveillance, including in the classroom areas and clinics, so that inmates cannot be dragged into areas with no video cameras just to be beaten.
3. Strengthen Use of Force Policies, ensuring that all officers and supervisors understand when the use of force is warranted and when it is not.
4. Strengthen Reporting Requirements, including a zero tolerance policy for the failure to submit complete, accurate and prompt reports.
5. Drastically improve the quality and timeliness of use of force investigations and hold staff accountable for biased or incomplete investigations
6. Ensure that inmates are adequately supervised, that

vulnerable inmates are transferred when necessary, and that inmates receive prompt medical care after any use of force by staff.

7. Develop comprehensive training programs on use of force policies and defensive tactics, and on conflict resolution and crisis intervention.
8. Ensure that staff face appropriate and meaningful discipline for any violation of use of force policies and procedures, including developing categories of misconduct that will result in officers being terminated.
9. Develop a continuum of alternative disciplinary sanctions that do not involve lengthy periods of isolation and that reward good behavior by inmates.

In all, we have proposed more than 70 concrete recommendations to help fix Rikers Island.

We recognize that the Department of Correction's new leadership inherited this crisis. But, in the strongest terms, I urge the City to take these recommendations seriously, and I am glad that its leadership has given every indication that the City will.

As our investigation has shown, Rikers Island is a broken institution for adolescents, and a broken institution will produce broken people, especially when they are young and fragile with mental illness as so many of them are. The adolescents in Rikers are walled off from the public, but they are not walled off

from the Constitution.

Indeed, most of these young men are pre-trial detainees, presumed innocent until proven guilty, but whether they are pre-trial or convicted, they are entitled to be detained safely and in accordance with their Constitutional rights – not consigned to a corrections crucible that seems more inspired by Lord of the Flies than any legitimate philosophy of humane detention.

These young men, automatically prosecuted as adults despite their age under NY law, may be on an island and out of sight, but they can no longer remain out of mind.

The rule of law applies to everyone, not only to adolescent criminal defendants but also to adult corrections officers.

If there is one thing that history teaches, it is that violence begets violence. And the culture of arbitrary violence at Rikers must come to an end.

And by the way, the cost of a broken Rikers Island is borne by all of us. Because the cost of that culture is the sum of the incalculable expense of an unchecked cycle of violence; of increased recidivism; of emergency and long-term medical treatment; of legitimate lawsuits that the City must settle; and of a loss of faith and confidence in our criminal justice system as a whole.

That cost is too much for all of us to bear any longer, especially when there are sensible solutions on the table. I hope there is a will towards change.

I want to thank the Board of Correction for their assistance in connection with this Office's investigation.

I also want to recognize and thank the dedicated prosecutors and paralegals in my office for their outstanding work in bringing these findings to light. The Assistant U.S. Attorneys are: Emily Daughtry, Deputy Chief Appellate Attorney; Jeffrey Powell; Lara Eshkenazi, Deputy Chief of the Civil Rights Unit, David Kennedy, Chief of the Civil Rights Unit, and Sara Shudofsky, Chief of the Civil Division. The paralegals are Tammy Yin and Jamie Tovar.

Now, I am happy to take your questions.